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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
A G E N D A
MINUTES

The New Motor Vehicle Board held a General meeting on March 12, 2002, in Hearing Room #1, at the offices of the New Motor Vehicle Board ("Board").

2. **ROLL CALL**

Frederick E. (Fritz) Hitchcock, President of the Board, called the General meeting to order at 9:03 a.m.

Present:	Wendy Brogin	Tom Novi
	Robert T. (Tom) Flesh	Executive Director
	Frederick E. (Fritz) Hitchcock	Howard Weinberg
	Angelo Quaranta	General Counsel
	Alan J. Skobin	Robin Parker
	Solon C. Soteris	Senior Staff Counsel
	Glenn E. Stevens	Cara O'Neill-Stewart
	David W. Wilson	Staff Counsel

Mr. Hitchcock welcomed and introduced Angelo Quaranta, Public member, Howard Weinberg, Board General Counsel, and Cara O'Neill-Stewart, Staff Counsel.

3. **APPROVAL OF THE MINUTES FROM THE JANUARY 8, 2002, GENERAL MEETING**

Mr. Skobin requested that his comments concerning Agenda Item 10 (Consideration of Modifying the Board's Parliamentary Procedures to Reflect That the Offices of Board President and Vice President Should Include at Least One Public Member - Policy and Procedure Committee) be revised as follows:

Mr. Skobin indicated that while he is very much in favor of having at least one of the two positions held by a Public member, he cited a number of instances where it would not be good public policy to have a rule, as opposed to relying upon the good judgment of the Board members who would consider all of the relevant facts and circumstances at that time.

Mr. Flesh moved to adopt the minutes as amended. Mr. Soteras seconded the motion. Mr. Quaranta abstained from voting because he was not a member at the January 8, 2002, General meeting. The motion carried unanimously.

4. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code sections 11126(e)(1) and (e)(2)(C), all members of the Board shall convene in a closed Executive Session.

Discussion of whether to initiate litigation based on existing facts and circumstances - one potential case.

Mr. Skobin recused himself from deliberations and voting in this matter.

All members of the Board, excluding Mr. Skobin, convened in closed Executive Session to discuss whether to initiate litigation based on existing facts and circumstances.

Mrs. Brogin moved to authorize the Office of the Attorney General to initiate an action before the State Bar of California for one individual. Mr. Wilson seconded the motion. The motion carried unanimously.

Mr. Stevens moved to authorize the Office of the Attorney General to initiate an action before the State Bar of California for a second individual. Mrs. Brogin seconded the motion. The motion carried unanimously.

Mr. Wilson moved to authorize the Office of the Attorney General to initiate an action before the State Bar of California for a third individual. Mr. Stevens seconded the motion. The motion carried unanimously.

5. **OPEN SESSION**

The Board members returned to Open Session and Mr. Skobin joined the members at the dais.

Mr. Hitchcock welcomed a number of guests in the audience, including, but not limited to the following: Avery Greene, President, California Motor Car Dealers Association ("CMCDA"); Peter Welch, Director of Government and Legal Affairs, CMCDA; Lori Brogin; Nikki Nichols; Brandi Bousquet; Skip Daum, Executive Director, California Recreation Vehicle Dealers Association; Michael M. Sieving, Esq., Brian Maas, Government and Legal Affairs Counsel; and Joan Chesarek.

With regards to Agenda Item 4, Mr. Hitchcock announced that the Board has authorized the Office of the Attorney General to initiate an action before the State Bar of California.

6. **APPOINTMENT OF COMMITTEE MEMBERS TO THE ADMINISTRATION COMMITTEE, BOARD DEVELOPMENT COMMITTEE, FISCAL COMMITTEE, AND POLICY AND PROCEDURE COMMITTEE, BY THE BOARD PRESIDENT, FREDERICK E. (FRITZ) HITCHCOCK**

The members were provided with a memorandum from Fritz Hitchcock concerning Presidential appointments of members to the Board's committees. Those committee assignments are: (1) ADMINISTRATION COMMITTEE - Alan Skobin, Chair; Wendy Brogin, Member; (2) BOARD DEVELOPMENT COMMITTEE - Tom Flesh, Chair; David Wilson, Member; (3) EXECUTIVE COMMITTEE (includes Audit Review Committee) - Fritz Hitchcock, Chair; Glenn Stevens, Member; (4) FISCAL COMMITTEE - Solon Soteras, Chair; Angelo Quaranta, Member; and (5) POLICY AND PROCEDURE COMMITTEE - Wendy Brogin, Chair; Alan Skobin, Member.

Mr. Flesh commented that given the current Dealer member vacancy, there exists the possibility that these designations will be revisited.

These new committee assignments were effective after the meeting.

7. **ANNUAL REVIEW OF THE BOARD'S MISSION AND VISION STATEMENTS - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Tom Novi concerning the annual review of the Board's mission and vision statements. Mr. Novi reported that from a staff perspective, the mission and vision statements accurately reflect the Board's current responsibilities and no changes were indicated. There were no suggestions for change from Board members.

8. **CONSIDERATION OF A REVISED TRANSCRIPT POLICY THAT WOULD ALLOW LITIGANTS TO PURCHASE HEARING OR MEETING TRANSCRIPTS FROM THE COURT REPORTER INSTEAD OF THE BOARD - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi, Dawn Kindel, and Kathy Tomono concerning revising the court reporter transcript procedures. Mr. Novi indicated that in an effort to expedite the process and keep costs down, the staff is exploring ways to streamline the process of providing transcripts to parties. Mr. Novi reported that the Board is unique among state agencies in that it maintains ownership of its transcripts and acts as a photocopy service for the parties. There is a \$.40 per page surcharge and copying can take up to 7 additional days depending on staff availability. The staff recommended that the language on the current contracts be changed to shift ownership of the transcripts from the Board to the court reporting service. This would allow the parties to order transcripts directly from the court reporter which would decrease the amount of time and cost, and would eliminate the Board's involvement in the process.

The members requested that the fee structure be agendized for the April meeting. Additionally, it was also suggested that the fee structure be published in the Board's quarterly newsletter, the *In-Site*.

Mr. Soteras moved to adopt the recommendation. Mr. Quaranta seconded the motion. The motion carried unanimously.

9. **STATUS REPORT CONCERNING THE BOARD'S FINANCIAL CONDITION THROUGH THE 1ST AND 2ND QUARTER OF FISCAL YEAR 2001-2002 - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi, Dawn Kindel, and Linda Lighter concerning the Board financial condition for the 1st and 2nd quarter of fiscal year 2001-2002. Mr. Novi reported that the Board expenditures were 34% of its appropriated budget, which was well within the Board's budget allocation.

10. **BOARD MEMBER EDUCATION CONCERNING CHANGES TO THE ADMINISTRATIVE PROCEDURE ACT, BAGLEY-KEENE OPEN MEETING ACT, POLITICAL REFORM ACT, AND PUBLIC RECORDS ACT - BOARD DEVELOPMENT COMMITTEE**

Annually the Board staff provides an update concerning any statutory changes to the laws which govern the Board's operations and its quasi-judicial functions. Robin Parker provided a brief update on the Administrative Procedure Act, Bagley-Keene Open Meeting Act, and Public Records Act. The applicable codes and summaries were also provided. Howard Weinberg provided an update on the Political Reform Act and highlighted the changes effective in 2002.

11. **CONSIDERATION OF A PROPOSAL TO REVIEW THE BOARD'S STATUTES AND REGULATIONS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Howard Weinberg concerning a review of the Board's statutes and regulations. Mr. Weinberg reported that the staff wanted to solicit input and suggestions from the Board's constituency in an effort to expedite dispute resolution. Any recommended changes would not advantage any one class of parties in a dispute or be controversial.

It was recommended that the proposed list of tasks and time line for the study be adopted. A letter to solicit input was developed and will be disseminated on March 15, 2002. The deadline for responses was April 15, 2002. It was anticipated that any legislative and/or regulatory changes would be initiated in January 2003. Mr. Flesh moved to adopt the recommendation. Mr. Stevens seconded the motion. Mr. Skobin commented that four (4) weeks may not be an adequate amount of time to allow for responses and suggested the

deadline for responses be extended by two (2) weeks. Furthermore, he suggested that Board staff contact personnel to solicit comments. Mr. Flesh amended his motion to extend the deadline for receipt of responses to April 30, 2002. Mr. Stevens seconded the motion. The motion carried unanimously.

12. **CONSIDERATION OF THOSE LICENSEES WHO RESPONDED TO THE SECOND QUESTIONNAIRE CONCERNING WHETHER THEY FALL WITHIN THE BOARD'S JURISDICTION FOR PURPOSES OF COLLECTING THE ANNUAL BOARD FEE (13 CCR § 553) - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Robin Parker which updated those licensees who responded to the Board's second questionnaire concerning whether they fall within the Board's jurisdiction for purposes of collecting the annual Board fee. Ms. Parker reported that four (4) licensees had not responded to the Board's requests for information. If compliance had not been received by March 15, 2002, the noncomplying licensees would be directed to appear at the April 26, 2002, meeting and explain why they had not complied. The members will be provided with an update on this matter at the April meeting.

13. **ANNUAL REPORT CONCERNING BOARD ADOPTED POLICIES - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Robin Parker concerning the annual review of Board adopted policies. The members were reminded that these policies serve as a guide but are not restrictive and may be waived or modified by the Board at any time.

14. **DISCUSSION CONCERNING PENDING LEGISLATION - POLICY AND PROCEDURE COMMITTEE**

- a. Pending Legislation that impacts the Board.
 - (1) Senate Bill 774.
 - (2) House of Representatives Bill 1296.
- b. Pending Legislation of general interest.
 - (1) Senate Bill 91.
 - (2) Assembly Bill 2397.

The members were provided with a memorandum from Tom Novi and Robin Parker summarizing the legislation that impacts the Board and bills of general interest. The summary analyzed the current law, the legislation, and the impact on the Board.

With regards to Senate Bill 774, which proposes to put the recreation vehicle industry within the Board's jurisdiction, Mr. Novi commented that the Board's concerns with the

definition of line-make have not been addressed by an amendment. Skip Daum, Executive Director, California Recreation Vehicle Dealers Association, offered comments concerning the pending legislation and addressed member questions.

15. **CONSIDERATION OF UPCOMING CALIFORNIA MOTOR CAR DEALERS ASSOCIATION FIELD MEETINGS AND DEALER ROUNDTABLES**

The members were provided with a memorandum from Tom Novi concerning upcoming CMCDA Field and Roundtable meetings.

Avery Greene, President, CMCDA, expressed his appreciation on behalf of the Association with having Tom Novi and the members attend their meetings.

Mr. Soteris indicated that he would attend the Field Meetings on May 16, 2002, in Bakersfield, and May 17, 2002, in Ventura. Messrs. Hitchcock and Wilson indicated that they would attend the September 19, 2002, Roundtable Meeting in Orange County. Mr. Quaranta indicated that he would attend the October 17, 2002, Field Meeting in Walnut Creek. Messrs. Flesh and Hitchcock indicated that they would attend the November 14, 2002, Field Meeting in Ontario. Board member attendance at the December 5, 2002, Field Meeting in Rohnert Park remains open. Board staff will also attend these meetings.

16. **EXECUTIVE DIRECTOR'S REPORT**

- a. Administrative Matters.
- b. Status of Protests.
- c. Status of Petitions.
- d. Status of Appeals.
- e. Judicial Review.
- f. Notices Filed Pursuant to Vehicle Code Sections 3060 and 3062.
- g. Other.

Mr. Novi provided the members with a Report on Administrative Matters which identified all pending projects, the Board manager and committee assigned, estimated completion date, and status.

The members were also provided with a copy of the Executive Director's Report. Mr. Stevens requested that the staff provide an update of *Ferrari of Los Gatos* at the next meeting.

Mr. Soteris requested that a report concerning the January 2002, National Automobile Dealers Association meeting in New Orleans be provided at the April meeting.

The Board's General meeting, tentatively scheduled for May 14, 2002, was moved from Sacramento to San Francisco. (Note: subsequent to the March 12, 2002, meeting, it was determined that a May 14, 2002, meeting would not be necessary.)

Mr. Skobin announced that Mr. Soteras was appointed to the Los Angeles County Quality and Productivity Commission.

17. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 10:50 a.m.

Submitted by

On File

TOM NOVI
Executive Director

On File

APPROVED:

Frederick E. (Fritz) Hitchcock
President
New Motor Vehicle Board